IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.185 OF 2002

Regina D'souza & Anr. ...Appellants

Versus

The Municipal Corporation of
Greater Mumbai ...Respondent

Shri G.V.Murti for the Appellants.
Shri J.J.Xavier for the Respondent.

CORAM : ABHAY S.OKA, J.
DATED : FEBRUARY 27, 2007.

P.C.:

1. Heard Advocates appearing for the parties. My attention has been invited to the letter dated 17th August, 2002 sent by the Assistant Engineer, Building Proposals (Western Suburbs), 'P' Ward to the Architect appointed by the Appellant. The said communication is as regards the proposal for regularisation of the suit structure submitted by the Appellants. The said letter records that certain compliances mentioned therein have not been made by the Appellants and therefore, regularisation proposal cannot be considered.

2. The first objection is regarding failure to submit supervision memo alongwith no objection certificate from the earlier Architect employed by the

Appellants. Shri Murti appearing for the Appellants states that within a period of two weeks from today, the Appellants will submit appropriate indemnity bond indemnifying the Respondent Corporation against any demand made by the earlier Architect. He states that the earlier Architect is not available to issue no objection certificate. The second objection raised in the letter is regarding failure to obtain the status and width of the existing access road from the concerned Department of the Respondent. Shri Murti appearing for the Appellant states that on 17th February, 2007 necessary report has been obtained by the Appellants and the same will be submitted to the Executive Engineer, Building Proposal Department within a period of two weeks from today. The third objection is regarding submitting necessary proof to show that the premises under reference will be used for computer purposes. Shri Murti states that within period of two weeks from today, the Appellants will submit their own affidavit-cum-undertaking in that behalf to the Executive Engineer, Building Proposal Department.

3. Shri Xavier on instructions of the concerned officer of the Respondent Corporation states that if the

aforesaid compliances are made, the Respondent will not insist on complying with the objection raised regarding certification of "No Action Pending" from the Assistant Commissioner,‘P’ North Ward and will consider the proposal for regularisation already submitted on behalf of the Appellants in accordance with law. He states that the Respondent Corporation will require about 15 days time to scrutinise proposal and to pass appropriate order thereon from the date on which aforesaid documents are submitted by the Appellants.

4. In view of the aforesaid submissions made by Shri Xavier, Shri Murti prays that he may be permitted to withdraw the First Appeal and the suit structure may be protected for a limited time. In view of the aforesaid, I pass the following order:

(i) The statements made by the learned Advocate appearing for the Appellants and the learned Advocate appearing for the Respondents referred to above are accepted.

(ii) In view of the aforesaid statements, Appeal is dismissed as withdrawn.

(iii) Status-quo as of today will be maintained by both the parties in respect of the suit structure for a period of 12 weeks from today.

(iv) The proposal for regularisation will be decided on its own merits.

(v) Parties to act upon an authenticated copy of this order.

JUDGE